

House File 5

HOUSE FILE _____
BY HEDDENS, BAILEY, GAYMAN,
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and STAED

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the maximum finance charge allowed for
2 consumer loans secured by a certificate of title to a motor
3 vehicle and making penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1538HH 82
6 rn/gg/14

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1 1 Section 1. Section 537.2401, subsection 1, Code 2007, is
1 2 amended to read as follows:
1 3 1. Except as provided with respect to a finance charge for
1 4 loans pursuant to open end credit under section 537.2402 and
1 5 loans secured by a certificate of title of a motor vehicle
1 6 under section 537.2403, a lender may contract for and receive
1 7 a finance charge not exceeding the maximum charge permitted by
1 8 the laws of this state or of the United States for similar
1 9 lenders, and, in addition, with respect to a consumer loan, a
1 10 supervised financial organization or a mortgage lender may
1 11 contract for and receive a finance charge, calculated
1 12 according to the actuarial method, not exceeding twenty=one
1 13 percent per year on the unpaid balance of the amount financed.
1 14 This Except as provided in section 537.2403, this subsection
1 15 does not prohibit a lender from contracting for and receiving
1 16 a finance charge exceeding twenty=one percent per year on the
1 17 unpaid balance of the amount financed on consumer loans if
1 18 authorized by other provisions of the law.

1 19 Sec. 2. Section 537.2402, subsection 1, Code 2007, is
1 20 amended to read as follows:
1 21 1. If authorized to make supervised loans, a creditor may
1 22 contract for and receive a finance charge without limitation
1 23 as to amount or rate with respect to a loan pursuant to
1 24 open=end credit as permitted in this section except as
1 25 provided in section 537.2403.

1 26 Sec. 3. NEW SECTION. 537.2403 FINANCE CHARGE FOR
1 27 CONSUMER LOANS SECURED BY A MOTOR VEHICLE.
1 28 1. A lender shall not contract for or receive a finance
1 29 charge exceeding twenty=one percent per year on the unpaid
1 30 balance of the amount financed for a loan of money secured by
1 31 a certificate of title to a motor vehicle used for personal,
1 32 family, or household purpose except as authorized under
1 33 chapter 536 or 536A. A consumer who is charged a finance
1 34 charge in excess of the limitation in this section may seek
1 35 any remedies available pursuant to this chapter for an excess
2 1 charge.
2 2 2. It shall be a violation of this section and an unlawful
2 3 practice under section 714.16 to attempt to avoid application
2 4 of this section by structuring a loan of money secured by a
2 5 certificate of title to a motor vehicle as a sale, sale and
2 6 repurchase, sale and lease, pawn, rental purchase, lease, or
2 7 other type of transaction with the intent to avoid application
2 8 of this section or any other applicable provision of this
2 9 chapter.

EXPLANATION

2 10 This bill relates to the maximum finance charge allowed for
2 11 consumer loans secured by a certificate of title to a motor
2 12 vehicle. The bill prohibits a lender from contracting for or
2 13 receiving a finance charge which exceeds 21 percent per year

2 15 on the unpaid balance of a loan for money which is secured by
2 16 a certificate of title to a motor vehicle. The remedies under
2 17 Code chapter 537 for excess charges are available to consumers
2 18 who are charged a finance charge in excess of 21 percent per
2 19 year for such a consumer loan. The bill provides that an
2 20 attempt to avoid application of the maximum finance charge on
2 21 a loan secured by a certificate of title to a motor vehicle by
2 22 structuring the transaction as a sale, sale and repurchase,
2 23 sale and lease, pawn, rental purchase, or lease with the
2 24 intent to avoid the maximum finance charge shall be considered
2 25 a violation of the maximum finance charge and shall be
2 26 considered a consumer fraud subject to civil penalties and
2 27 enforcement pursuant to Code section 714.16.

2 28 Under current law, a consumer is not obligated to pay an
2 29 excess charge and is entitled to a refund of any excess charge
2 30 paid. If a consumer entitled to a refund is refused the
2 31 refund, the consumer may recover from the creditor or other
2 32 person liable in a civil action the excess charge and a
2 33 penalty of not less than \$100 or more than \$1,000. Under
2 34 current law, a person who willfully and knowingly makes an
2 35 excess charge is guilty of a serious misdemeanor. A serious
3 1 misdemeanor is punishable by confinement for no more than one
3 2 year and a fine of at least \$315 but not more than \$1,875.

3 3 LSB 1538HH 82

3 4 rn:rj/gg/14